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DIGEST OF SOUTH DAKOTA WATER POLLUTION
CONTROL LEGISLATION

Public Health Service
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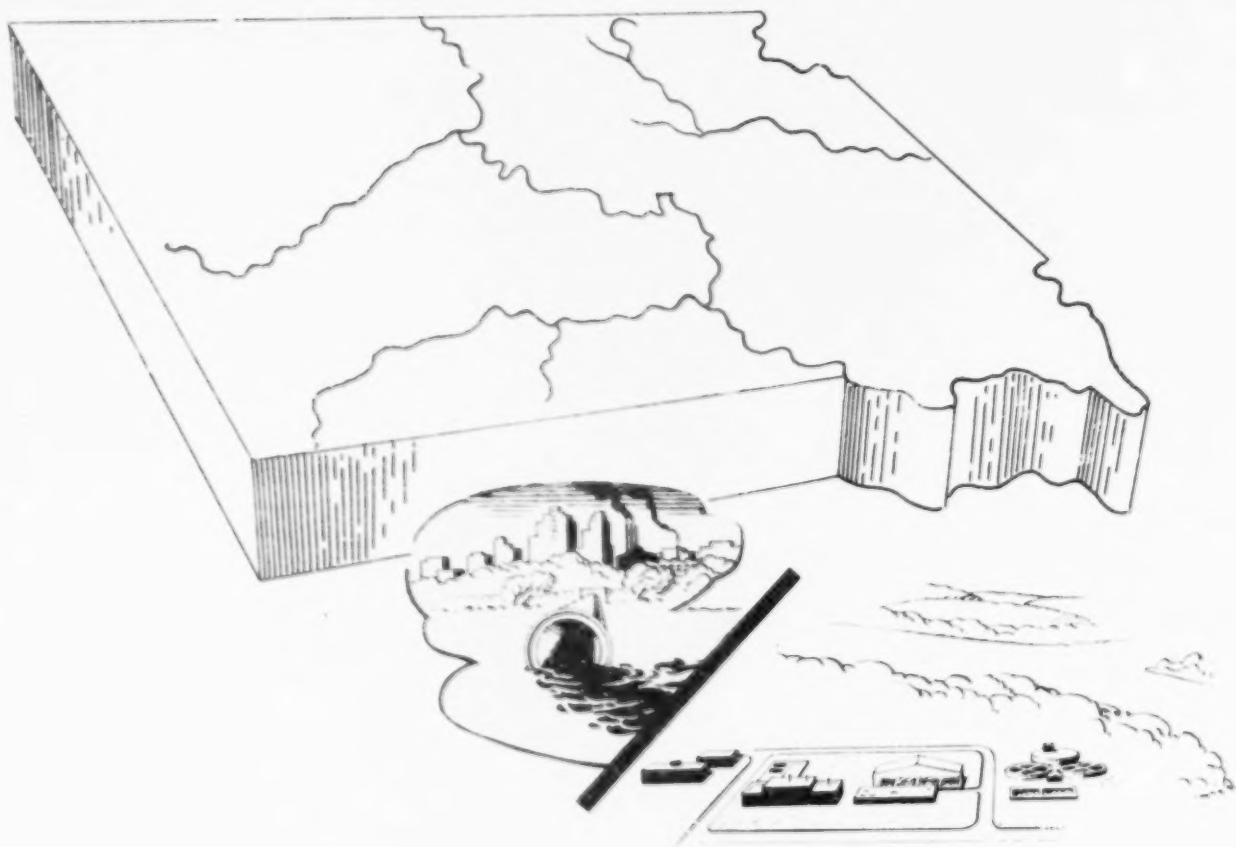
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Digest of WATER POLLUTION CONTROL LEGISLATION ... South Dakota



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U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF SOUTH DAKOTA WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The Committee on Water Pollution has the primary responsibility of controlling water pollution in the State (Laws of South Dakota, 1955, Ch. 430, sec.1 (secs. 61.0142-61.0143)). ^{1/}

The Public Health Advisory Committee, in addition to its function of making and enforcing rules, regulations, and orders for the protection of the public health, also exercises functions relating to the disposal of sewage, the pollution of waters, and the distribution of water for drinking or domestic purposes (1952 Supp., sec. 27.0104(4)(b)(e)); Laws of South Dakota, 1957, (House Bill No.717), secs. 1, 2 (secs. 27.0101, 27.0102)).

II. ADMINISTRATIVE ORGANIZATION

Committee on Water Pollution

1. Composition

The Committee consists of the State Health Officer of the Department of Health, who is ex officio Chairman, the Chairman of the Water Resources Commission, and the Director of the Department of Game, Fish and Parks. The Director of the Division of Sanitary Engineering of the State Department of Health is the Secretary and Executive Officer of the Committee. Meetings are held at the call of the Chairman (Laws of South Dakota, 1955, Ch. 430, sec.1, to be added to the Code as secs. 61.0142, 61.0143).

^{1/} Citations in this digest refer to the South Dakota Code of 1939, and the 1952 Supplement thereto, unless otherwise noted.

2. Powers and duties

a) Classification of waters

The Committee is authorized to classify the public waters of the State into classes: "Class A" and "Class B". Class A waters are those in which pollution can be so controlled that the receiving waters will not be unfit for domestic use, unsafe as a source of public water supply, deleterious to fish or plant life, or will not cause a public nuisance. Class B waters are to be those which are more important to the welfare of the State as carriers of waste, provided such wastes are not detrimental to the public health (Laws of South Dakota, 1955, Ch.430, sec. 1, to be added to the Code as sec. 61.0145).

b) Issuance of permits

A permit must be secured from the Committee by anyone before he can discharge into Class A waters any new pollution in the form of sewage, industrial or other wastes. In issuing the permit, the Committee prescribes the standards of quality of such sewage, industrial or other wastes so as to maintain the receiving waters in Class A condition. The Committee can require an applicant to submit technical information necessary to judge the character of the waste and the degree of treatment required to maintain the necessary standards (Ibid).

c) Enforcement

The Committee may, upon its own initiative, or upon the written petition of the governing body of any municipality, any city or county board of health, or of 100 electors, investigate the alleged pollution of any Class A waters (Laws of South Dakota, 1955, Ch. 430, sec. 1, to be added to the Code as sec. 61.0146).

After the investigation, the Committee makes an order requiring any person causing pollution to appear before it and show cause why he should not be required to desist from further pollution. The order is issued upon affidavits setting forth the facts of pollution, and requires such person to appear before it at the county seat nearest the source of pollution, 30 days after the service of the order. Affidavits in answer must be served by the alleged polluter on the Committee or its attorney at least 10 days prior to the hearing, and reply affidavits, if any, may be served 5 days prior to the hearing (Laws of South Dakota, 1955, Ch. 430, sec. 1, to be added to the Code as sec. 61.0148).

If, after the hearing, the Committee believes the alleged offender is guilty and the public welfare warrants it, it may enter an order directing such offender, within a specified time, to refrain from continuing such pollution (Laws of South Dakota, 1955, Ch. 430, sec.1, to be added to the Code as sec. 61.0149).

The Circuit Court of the county where the pollution occurs has jurisdiction to enforce the orders of the Committee. Upon the failure of anyone to obey any order of the Committee, it certifies such fact to the Court. The Court then enters the necessary order to enforce the order of the Committee (Laws of South Dakota, 1955, Ch. 430, sec.1, to be added to the Code as sec. 61.0151).

An aggrieved party may appeal the Committee's order to the Circuit Court of the county where the pollution occurs in the manner provided for appeals from boards or commissions (Laws of South Dakota, 1955, Ch. 430, sec. 1, to be added to the Code as sec. 61.0152).

Anyone violating the provisions of the Act relating to pollution is guilty of a misdemeanor, punishable by a fine of not less than \$25.00 nor more than \$100.00 and/or by imprisonment in the county jail not exceeding 30 days (Laws of South Dakota, 1955, Ch. 430, sec. 21.

d) Conduct of studies, investigations, and research

The Director of the Division of Sanitary Engineering, at the direction of the Committee, makes investigations as to pollution, including necessary chemical and bacteriological analyses, and submits its reports to the Committee (Laws of South Dakota, 1955, Ch. 430, sec. 1, to be added to the Code as Sec. 61.0147).

e) Administrative powers

The Committee is authorized to hold hearings and issue permits and orders. It keeps a complete record of all its proceedings which are filed in the office of the Secretary and are to be open to public inspection (Laws of South Dakota, 1955, Ch. 430, sec. 2, (secs. 61.0145, 61.0146, 61.0149, 61.0150)).

3. Severability clause

The Act contains a severability clause (Laws of South Dakota, 1955, Ch. 430, sec.3).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to place any offal, manure, animal carcass or other deleterious substance into any river, stream or lake or upon the banks thereof so that they may be washed into the watercourse. Violation is a misdemeanor (Secs. 13.1506, 61.9901).

Anyone who wilfully poisons any spring, well, or reservoir of water is subject to imprisonment and/or a fine (Sec. 13.1503).

It is unlawful for anyone to remove or place any person, property, or vehicle of any kind on any waters of the State without a permit, or to deposit any waste with such intention that it may be carried into such waters by natural causes (Sec. 25.014).

It is unlawful for anyone to pollute any waters of the State, or to fill or use any land or any part of any land, or to discharge any waste or any other substance into any waters of the State, or to fill or use any land or any part of any land, or to discharge any waste or any other substance into any waters of the State, or to fill or use any land or any part of any land, or to discharge any waste or any other substance into any waters of the State.

IV. PROHIBITION

It is unlawful for anyone to pollute any waters of the State, or to fill or use any land or any part of any land, or to discharge any waste or any other substance into any waters of the State, or to fill or use any land or any part of any land, or to discharge any waste or any other substance into any waters of the State, or to fill or use any land or any part of any land, or to discharge any waste or any other substance into any waters of the State.